

Chapter 5

AMUSEMENTS*

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ARTICLE I. BUNGEE CORD JUMPING

Sec. 5-1. Definitions.

As used in this article the following terms, phrases and words shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Bungee cord jumping means the sport, activity, or practice of jumping, falling, stepping out of, dropping, or otherwise being released into the air while attached or fastened to any type of cord or rope or other device, including cords made of rubber, latex, or other elastic-type material, whether natural or synthetic, whereby the cord stops, lengthens or shortens the fall of any person, allowing the person to bounce up and down, ultimately intending to bring the person to a stop at a point above the ground surface.

Enterprise means any establishment that provides the services or facilities required for engaging in bungee cord jumping or reverse bungee cord jumping or the demonstration or exhibition thereof.

Reverse bungee cord jumping means the sport, activity, or practice of attaching or fastening one's self to any type of cord or rope or other device,

including cords specified in the definition of bungee cord jumping above, whereby a person is located below a device or structure or machine from which a cord or rope is suspended or attached and is released to cause the person to be propelled, catapulted, or otherwise launched out of a fixed position into the air, allowing the person to bounce up and down, ultimately intending to bring the person to a stop at a point above the ground surface.

(Ord. No. 92-1480, § 2, 11-10-92)

Sec. 5-2. Bungee cord jumping and reverse bungee cord jumping prohibited.

It shall be unlawful for any person to engage in bungee cord jumping or reverse bungee cord jumping in any form whatsoever, or for any person to own, operate or conduct any enterprise.

(Ord. No. 92-1480, § 2, 11-10-92)

Sec. 5-3. Penalty.

Any person who violates any provision of this article shall, upon conviction, be fined an amount not less than \$200.00, nor more than \$500.00. Each day that any such violation continues shall constitute and be punishable as a separate offense.

(Ord. No. 92-1480, § 2, 11-10-92)

***Charter reference**—Power of city to regulate amusements, Art. II, § 16(b).

Cross references—The Houston Festival, § 12-81 et seq.; parks and recreation, Ch. 32; use of police academy driving track by private persons, § 34-36; street dances, § 40-27; tax on coin-operated machines, § 44-82 et seq.

State law reference—Power of city to regulate amusements, Vernon's Ann. Civ. St. art. 1175(22).

Secs. 5-4—5-15. Reserved.**ARTICLE II. CARNIVALS*****DIVISION 1. GENERALLY****Sec. 5-16. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Amusement ride* shall mean any device that carries or conveys passengers upon, along, around, or over a fixed or restrictive route or course or within a defined area, for the purpose of giving its passengers amusement, pleasure, thrills, or excitement.
- (2) *Carnival* shall mean any traveling enterprise which offers the use of one or more amusement rides.

(Code 1968, § 36-1; Ord. No. 81-1590, § 1, 8-18-81)

Secs. 5-17—5-25. Reserved.**DIVISION 2. PERMIT****Sec. 5-26. Required.**

No person shall permit a carnival to be placed on property under his control or place or operate any carnival on any property within the city unless a permit has been issued by the city for the operation of the carnival.

(Code 1968, § 36-2; Ord. No. 81-1590, § 1, 8-18-81)

Sec. 5-27. Application.

To obtain a permit for the operation of a carnival, the applicant shall file an application therefor with the tax assessor and collector on a form furnished by the city for that purpose. The application information shall include:

- (1) The name and address of the person or persons under whose control the carnival will be operated.

- (2) The street address of the site on which the carnival is to be operated.
- (3) The number and types of amusement rides which will be operated at that location.
- (4) Whether there will be any temporary electrical, gas, water or sewer connections to any equipment or fixtures associated with the carnival and a description of the connections that will be made.
- (5) Whether there will be any food offered for sale as part of or in association with the carnival.
- (6) Whether there will be any tents and the dimensions thereof.
- (7) The date on which the carnival will be placed on the property and the date it will be removed therefrom.
- (8) The date on which the carnival will be first operated on the property and the last date the carnival will be operated at that location.
- (9) The name of the owner of the real property upon which the carnival will be operated; if the applicant is not the owner thereof he shall attach a lease or other written evidence of his authority to use the property to the application.

(Code 1968, § 36-3; Ord. No. 81-1590, § 1, 8-18-81)

Sec. 5-28. Issuance.

Upon the filing of an application pursuant to this division and the payment of the permit fee, the tax assessor-collector shall issue a permit for the operation of the carnival at the location and for the dates specified in the application. Upon issuance of a permit for a carnival, the tax assessor-collector shall notify the fire marshal, the building official, the planning official, and the health officer thereof.

(Code 1968, § 36-5; Ord. No. 81-1590, § 1, 8-18-81; Ord. No. 90-635, § 13, 5-23-90; Ord. No. 93-514, § 10, 5-5-93; Ord. No. 98-613, § 13, 8-5-98; Ord. No. 04-1075, § 2, 10-20-04)

*Cross reference—Noise generally, Ch. 30.

Sec. 5-29. Fee and term.

The fee for a permit for the operation of a carnival shall be \$5.00. The permit shall be valid only for the location and dates specified on the permit.

(Code 1968, § 36-4; Ord. No. 81-1590, § 1, 8-18-81)

Sec. 5-30. Effect.

Any carnival and any operator thereof must meet and comply with all applicable requirements of law, and the issuance of a permit under this division shall not excuse any person from obtaining any other permit or license or inspection required under this Code, the Construction Code or the Fire Code.

(Code 1968, § 36-6; Ord. No. 81-1590, § 1, 8-18-81; Ord. No. 02-399, § 12, 5-15-02)

Secs. 5-31—5-45. Reserved.**ARTICLE III. DANCE HALLS*****DIVISION 1. GENERALLY****Sec. 5-46. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverage shall mean alcohol and any beverage containing more than one-half of one percent of alcohol by volume which is capable of use for beverage purposes, either alone or when diluted.

Beer shall mean a malt beverage containing one-half of one percent or more of alcohol by volume and not more than four percent of alcohol by weight, and shall not be inclusive of any beverage designated by label or otherwise by any other name than beer.

Cabaret or *nightclub* shall mean any room, space, structure, building or resort open to the public, enclosed or unenclosed, where food or beer

or wine, or other alcoholic beverage is served on the premises, including restaurants and cafes, and where patrons are provided with a space for dancing, or are permitted to dance.

Club shall mean any bona fide nonprofit society, association of persons or corporation, organized for civic, fraternal, social or charitable purposes, or any purpose not a business or commercial purpose, which owns, rents or operates a place or building for the accommodation of its members when such place or premises or any part thereof is used for dancing by members of the club, or is rented to others for such purpose.

Dancing school shall mean any room, place, space, building or academy in which classes in dancing are held and instruction in dancing is given for hire.

Licensee means any holder of a license provided for in this article, whether acting as principal, agent, or employee.

Minor shall mean a person under the age of 18 years whose disabilities as a minor have not been removed by a court of competent jurisdiction.

Operator or *dance hall operator* shall mean the person who conducts, manages, maintains or controls, either directly or indirectly, any dance hall as defined and designated in this article.

Private dance shall mean and include any dance given at any home or any dance given or held by a club, admission to which is granted to members and their invited guests and from which the general public is excluded.

Public dance or *public ball* shall mean any dance or ball to which admission can be had by payment of a fee, or by the purchase, possession or presentation of a ticket or token, or in which a charge is made for caring for clothing, or any other dance to which the public generally may gain admission with the payment of a fee directly or indirectly, or without payment of a fee.

Public dance hall shall mean any room, place, space or building where a public dance is held or conducted.

Teenage dance hall shall mean any room, place, space or building where a public dance is held or

*Cross references—Noise generally, Ch. 30; playing of radios, phonographs, etc., § 30-3.

conducted exclusively for persons under the legal age established by state law for purchase and consumption of alcoholic beverages and where the sale, consumption or possession of beer, wine, or other alcoholic beverages are prohibited.

Wine shall mean the product obtained from the alcoholic fermentation of juice of sound ripe grapes, fruits, or berries.

(Code 1968, § 36-33; Ord. No. 98-986, § 2, 11-4-98)

Sec. 5-47. Classification.

Dance halls are hereby designated and rated by the following classes:

- (1) *Class A.* Cabarets and night clubs are designated and rated as Class A dance halls.
- (2) *Class B.* All dance halls under the terms of this article not otherwise specifically classified are designated and rated as Class B dance halls.
- (3) *Class C.* Dancing schools are designated and rated as Class C dance halls.
- (4) *Class D.* Places or buildings owned, rented or operated by clubs and used for dancing by members of the club or rented to others for such purpose are hereby designated as Class D dance halls.
- (5) *Class E.* Teenage dance halls are hereby designated and rated as Class E dance halls.

(Code 1968, § 36-34)

Sec. 5-48. Compliance with Construction Code and Fire Code.

(a) All dance halls shall be constructed and maintained in conformity with the Construction Code and the Fire Code, except as otherwise provided in subsection (b).

(b) A dance hall that is situated in any building located in an area heretofore or hereafter annexed to the city and was originally constructed in compliance with the laws applicable in the area prior to its annexation may be operated even though the floor space therein exceeds the maximum area specified in the Building Code, provided the dance hall meets all of the otherwise

applicable standards and requirements specified in the Construction Code that relate to stairs, exits, and occupant loads and all applicable provisions of the Fire Code.

(c) For the purpose of the enforcement of this section, any inspector designated by the tax assessor-collector shall be deemed a deputy of the fire marshal and any of the powers and duties herein given to the fire marshal may be exercised by any such inspector on behalf of the fire marshal.

(Code 1968, § 36-35; Ord. No. 02-399, § 13, 5-15-02)

Sec. 5-49. Minimum dancing space for Class A halls.

(a) Every Class A dance hall shall have a designated dance floor area of at least 100 square feet.

(b) The dance floor area herein required shall be designated by a two-inch band of paint upon the floor or other permanent marking.

(Code 1968, § 36-36; Ord. No. 71-2365, § 1, 12-21-71)

Sec. 5-50. Reserved.

Editor's note—Ord. No. 99-1085, § 2, adopted October 6, 1999, repealed § 5-50 in its entirety. Formerly said section pertained to closing hours for dance halls licensed to serve alcoholic beverages. See the Code Comparative Table.

Sec. 5-51. Minors in Class A and B halls.

(a) It shall be unlawful for any minor to enter or be in attendance in a Class A or Class B dance hall between the hours of 8:00 p.m. and 8:00 a.m., unless the minor is in the visible presence of the minor's parent, spouse or legally appointed guardian who is 18 years of age or older.

(b) It shall be unlawful for the licensee or operator of a Class A or Class B dance hall to suffer, allow or permit a minor to enter or be in attendance in the dance hall between the hours of 8:00 p.m. and 8:00 a.m., unless the minor is in the visible presence of the minor's parent, spouse or legally appointed guardian who is 18 years of age or older.

(c) It shall be unlawful for any person who is not the parent, spouse or legally appointed guardian of a minor to represent himself as the parent, spouse or legally appointed guardian of the minor for the purpose of enabling the minor to enter or to be in attendance in a Class A or Class B dance hall.

(Code 1968, § 36-39; Ord. No. 98-986, § 3, 11-4-98)

Sec. 5-52. Suffering or permitting illegal conduct.

It shall be unlawful for the operator of a public dance hall to permit or suffer any activity or conduct therein that is illegal, including without limitation, public intoxication, prostitution, promotion of prostitution, gambling, obscenity, disorderly conduct, or consumption of alcohol in a public place during hours prohibited by state law. (Code 1968, § 36-40; Ord. No. 99-1085, § 3, 10-6-99)

Sec. 5-53. Sleeping rooms prohibited.

No dance hall shall have in any way connected with it any room or rooms equipped or fitted in any way as sleeping rooms which are open to or let to the patrons of such dance hall, or to the public, with or without a charge being made therefor, except hotels having more than 100 rooms, and except rooms used as living quarters for employees and club members only.

(Code 1968, § 36-41)

Sec. 5-54. Toilet facilities.

Each dance hall shall be supplied with separate and convenient toilet facilities for each sex.

(Code 1968, § 36-42)

Sec. 5-55. Employees not to mingle with patrons.

Waiters, waitresses or entertainers shall not be permitted to eat, drink, dance or mingle with patrons in any dance hall.

(Code 1968, § 36-44)

Sec. 5-56. Special regulations for teenage halls.

(a) In addition to the other provisions of this article, a teenage dance hall shall be governed by the provisions of this section.

(b) Teenage dance halls shall not remain open or operate between the hours of 12:00 midnight and 12:00 noon; provided, however, on the thirty-first day of December of each year, such dance halls may remain open and operate until 1:00 a.m. of the following day.

(c) On nights preceding a regular school attendance day no person under the age of 17 years shall be permitted to dance after 8:00 p.m. unless such person is accompanied by a parent or legal guardian. On nights preceding a school holiday or during school vacation periods, no person under the age of 15 years shall be permitted to dance after 8:00 p.m. unless accompanied by a parent or legal guardian. It shall be unlawful for any person who is not the parent or legal guardian of a minor to represent himself as the parent or legal guardian of such minor person for the purpose of enabling the minor to gain admission into a teenage dance hall. For purposes of this subsection, school attendance days and holidays shall be determined on the basis of the regular classroom attendance schedule for the public school district in which the dance hall is located.

(d) It shall be the duty of the operator or licensee of a teenage dance hall to ascertain the correct legal age of all persons seeking admission to such facility, and such persons who do not meet the age requirements of this article shall be excluded from admission. All persons over the age of 20 years shall be refused admission to a teenage dance hall.

(e) The sale, consumption or possession, on the premises, of beer, wine, or other alcoholic beverages shall be prohibited, and no one shall be admitted to a teenage dance hall who is under the influence of intoxicating beverages or shows any evidence thereof.

(f) Patrons shall be admitted to a teenage dance hall only once in a twelve-hour period and shall not be granted readmission privileges under any circumstances or conditions.

(g) The operator or licensee shall employ not less than two security officers for each 100 persons in attendance to patrol the premises of a teenage dance hall and adjoining areas and to prevent disorder.

(Code 1968, § 36-45)

Sec. 5-57. Entry powers of city officials.

Free access and entrance into all dance halls shall at all times be accorded and granted to police and fire officers and dance hall supervisors of the city and to all other peace officers and probation officers, when on official duty and while enforcing laws and ordinances.

(Code 1968, § 36-46)

Sec. 5-58. Compliance with article.

The operator of any dance hall shall not permit the violation of any of the terms of this article and it shall be the duty of any officer and supervisor on duty at such dance hall to require compliance with the terms of this article.

(Code 1968, § 36-47)

Sec. 5-59. Exemptions.

The provisions of this article shall not apply to any of the following:

- (1) Private dances given at private homes.
- (2) Dances or balls held in the city auditorium or coliseum.
- (3) Dances for school children held in the auditorium or gymnasium of any public school under the supervision of the school authorities.

(Code 1968, § 36-48)

Secs. 5-60—5-70. Reserved.

DIVISION 2. LICENSE

Sec. 5-71. Required.

(a) It shall be unlawful to hold or conduct any public dance, teenage dance, or public ball, or any dancing school within the limits of the city, unless and until the dance hall in which the same is to be held has been licensed for such purposes in the

manner provided for in this division; provided, however, this section shall not apply where instruction is given to members of a family in their own home.

(b) It shall be unlawful for any person to dance at any dance hall required to be licensed hereunder unless such place has the license as provided for herein. The owner, proprietor or manager or person in charge of such dance hall without a license who permits any person to dance therein shall be guilty of a misdemeanor.

(Code 1968, § 36-54)

Sec. 5-72. Application.

(a) Any person desiring a license to operate a dance hall shall file with the tax assessor-collector a written, sworn application for such license on a form prescribed and furnished by the tax assessor-collector for such purpose. Such application shall state:

- (1) The location, by street and number, of the place, space or building and room or floor, and the size of such room or space, which is proposed to be used for such purposes, and the name and address of the applicant.
- (2) If the applicant is an individual, that he is a law abiding citizen of the state, and that he has been a resident of the city for more than one year next preceding the date of the application.
- (3) If the applicant is a firm, association or partnership, all of the information prescribed in paragraph (2) above shall be given as to each individual composing the firm, association or partnership.
- (4) If a corporation, that the applicant is organized and chartered under the corporation laws of this state applicable to such corporation, or if a foreign corporation, that such corporation has complied with the laws of this state applicable to such corporation and, with reference to the operator or person in charge of the operation of the dance hall desired to be licensed, the same information as is prescribed in paragraph (2) above; and in

addition thereto, a statement as to the names and addresses of the officers of such corporation.

- (5) If the applicant is an unincorporated club, the application must be made in the name of such club by the president or chairman of such club, who shall furnish all of the information prescribed in paragraph (2) above and, in addition thereto, a statement as to the names and addresses of the officers of such club.
- (6) Previous occupation or employment of the applicant for a period of five years next preceding the filing of his application.
- (7) If the application is for a license to operate a dancing school, or Class C dance hall, such application shall give the name and address of each person who is to instruct in such school.
- (8) Whether a hotel, rooming house or lodging house is conducted in any part of the premises for which a license is sought, and if so, the number of rooms contained in such hotel, rooming house, or lodging house; provided, however that nothing in this article shall prevent the issuance of a license to any public dance hall in a hotel having more than 100 rooms.
- (9) Such other and additional information as may be reasonably requested by the tax assessor-collector for the review and processing of the application.

(b) The information given in such application is for the purpose of determining whether or not the applicant is a fit and proper person to operate a dance hall.

(Code 1968, § 36-56)

Sec. 5-73. Inspection of premises and approval of application by health officer, fire marshal and building official.

No license shall be granted under this division unless it shall appear, upon investigation by or under the direction of the health officer, the fire marshal and the building official, that the premises desired to be used for the purpose of con-

ducting a dance hall complies with the laws of this state and the ordinances of the city regulating health and sanitation, fire regulations and the Construction Code. Such officers shall, in their respective capacities, note their approval or disapproval upon the application.

(Code 1968, § 36-57; Ord. No. 90-635, § 14, 5-23-90; Ord. No. 02-399, § 14, 5-15-02)

Sec. 5-74. Investigation and approval of application by chief of police.

No license shall be issued under this article unless the application therefor has been approved by the chief of police. The chief of police shall not approve an application for a license and no license shall be granted under this article if:

- (1) Any statement made in the application was incomplete or false.
- (2) The premises which are proposed to be used for a dance hall have been openly frequented by known prostitutes, persons promoting prostitution, or persons selling or distributing substances in violation of the Texas Controlled Substances Act during any period within two years immediately preceding the submission of the application to the tax assessor-collector or prior to the issuance of the license.
- (3) Any person required to be listed on the application has had a license revoked under this article within five years immediately preceding the submission of the application to the tax assessor-collector.

(Code 1968, § 36-58; Ord. No. 78-509, § 1, 3-21-78; Ord. No. 79-1762, § 1, 10-16-79)

Sec. 5-75. Not to issue for certain beer and wine establishments.

No license shall be issued under this division to any person for a place where 51 percent or more, of the income of such place or establishment is from the sale of beer or wine or other alcoholic beverages.

(Code 1968, § 36-59)

Sec. 5-76. Taxi dancing with minors prohibited.

(a) It shall be unlawful for any licensee or operator of a public dance hall to suffer or permit a minor to engage in the activities commonly known as "taxi dancing," "dollar dancing" or "pony dancing," or the like, wherein any person accepts, agrees to accept or solicits any cash, benefit or other thing of monetary value for the privilege of dancing with a minor.

(b) It shall be unlawful for any person to offer, confer or agree to confer any cash, benefit or other thing of monetary value to any person for the privilege of dancing with a minor.

(c) It shall be unlawful for the minor or any other person to solicit, accept or agree to accept any cash, benefit or other thing of monetary value from any person for the privilege of dancing with a minor.

(d) The provisions of this section shall apply without regard to whether: (1) the minor is an employee, agent or contractor of the public dance hall or is merely present in the public dance hall; (2) the cash, benefit or other thing of monetary value is solicited or accepted by the licensee or operator, the minor or any other person; and (3) the cash, benefit or other thing of monetary value is solicited or accepted exclusively for the dancing privilege or for food, beverage or other services or merchandise with which the dancing privilege is also provided.

(e) The license applicant's agreement to comply with this section shall constitute a condition of the issuance or renewal of a license under this article, and a statement reflecting this requirement shall be included on the application form. (Code 1968, § 36-60; Ord. No. 98-986, § 4, 11-4-98)

Sec. 5-77. Fees.

(a) The following fees shall be charged for each license issued under the terms of this division:

- (1) *Class A.* For a Class A dance hall, the license fee shall be \$550.00 per annum.

- (2) *Class A, one night per week.* For a Class A dance hall, where such dance hall operates less than two nights per week, the license fee shall be \$275.00 per annum.

- (3) *Class B.* For a Class B dance hall, the license fee shall be \$250.00 per annum; provided, however, where such dance hall is not operated more than three nights per week, the license fee shall be \$125.00 per annum.

- (4) *Class C.* For a Class C dance hall, the license fee shall be \$10.00; provided, however, whenever any Class C dance hall shall be used for the holding of public or private dances in addition to the classes and instruction in dancing, the fee shall be \$30.00 per annum.

- (5) *Class D.* For a Class D dance hall, the license fee shall be \$10.00; provided, however, whenever any Class D dance hall shall be rented to other operators for the holding of a public or private dance, the license fee shall be \$30.00 per annum.

- (6) *Class E.* For a Class E dance hall, the license fee shall be \$120.00 per annum; provided, however, where such dance hall is not operated more than three nights per week, the license fee shall be \$60.00 per annum.

(b) All license fees provided for in paragraphs (1), (2), (3) and (6) of subsection (a) above shall be paid in advance on either an annual or semiannual basis. If such fee is paid on a semiannual basis, the license issued shall be cancelled automatically upon default being made in the payment of any semiannual installment. The license fees provided for in the remaining paragraphs of subsection (a) shall be paid on an annual basis.

(c) For any original license granted during a current year, the fee for such license for the balance of such calendar year shall be prorated on the basis of the ratio that the remaining number of months in such calendar year bears to the figure 12, and for the purpose of determining such ratio, the month during which such license is

granted shall be counted as one full month irrespective of the day upon which such license is granted during such month.

(d) No refund of any license fee paid hereunder shall be made by the city for any cause whatsoever.

(Code 1968, § 36-61; Ord. No. 84-897, § 1, 6-12-84)

Sec. 5-78. Issuance.

A license applied for under this division shall be issued by the tax assessor-collector when the conditions of this article have been complied with and the application has been approved in accord with this division.

(Code 1968, § 36-62)

Sec. 5-79. Contents.

A license issued under this division shall state on its face to whom it is issued, the date it will expire, the address and location of such dance hall, and whether the licensee is authorized to operate and conduct a Class A, B, C, D or E dance hall. It shall be signed and sealed by the tax assessor-collector.

(Code 1968, § 36-63)

Sec. 5-80. Posting.

A license issued under this division shall be posted by the licensee in a conspicuous place at or near the entrance to the dance hall and in such a place and position that it may be easily read at any time of day or night.

(Code 1968, § 36-64)

Sec. 5-81. Assignment or transfer from one location to another.

Licenses issued under this division shall be deemed personal to the licensee and shall not be assignable to any other person or transferable to any other place.

(Code 1968, § 36-65)

Sec. 5-82. Effect.

The granting of any license under the terms of this division shall in no event be construed as the granting or conferring of any vested right to the

licensee or operator, and such license shall be subject to revocation and cancellation as provided for in this division.

(Code 1968, § 36-66)

Sec. 5-83. Expiration and renewal.

All licenses issued under this division shall terminate on the thirty-first day of December next after the date of such issuance, and any renewal thereof shall be for a period of one year and shall terminate on the thirty-first day of December next after such renewal, unless revoked or cancelled sooner as provided in this division. When it is desired to renew any license obtained under the procedure provided for in this division, the licensee holding such license and desiring to renew the same shall, before the expiration of such license, and not more than 30 days prior to such expiration date, be required to make application in the manner herein provided for the primary issuance of any class of license.

(Code 1968, § 36-67)

Sec. 5-84. Appeal from denial.

In the event the tax assessor-collector shall refuse to grant a license to any applicant under this division, his action in so refusing shall become final, unless the applicant shall, within ten days after the refusal to grant such license, file with the city secretary a written appeal addressed to the city council requesting a hearing by the council upon the question as to whether or not his application shall be granted. In the event such appeal is filed, the tax assessor-collector shall provide the council with a record of all proceedings theretofore had with reference to the application in question, including the written application, together with the action of the tax assessor-collector and the reason for such action. The city council shall, within 30 days, grant a hearing thereon to determine the correctness of the action of the tax assessor-collector and such action as the city council may take thereon shall be final and conclusive.

(Code 1968, § 36-68)

Sec. 5-85. Revocation.

(a) A license to operate a dance hall may be revoked if:

- (1) Any person required to be listed on the application for such license has committed any of the following offenses after the license was granted:
 - a. Any felony.
 - b. Any violation of the liquor laws of the state.
 - c. Any violation of state or federal laws regulating firearms.
 - d. Any violation of the Texas Controlled Substances Act or other state or federal law regulating drugs where the Act or other law permits punishment of confinement for one year or more upon conviction for such violation.
 - e. Any offense involving prostitution or aiding, abetting or promotion of prostitution.
 - f. Any substantive violation of the provisions of section 5-48 or sections 5-52 through 5-56.
- (2) Any person required to be listed on the application has been convicted of any of the offenses listed in paragraph (1) above after the license was issued.
- (3) The premises which are used for the dance hall have been openly frequented by known prostitutes, persons promoting prostitution, or persons selling or distributing substances in violation of the Texas Controlled Substances Act after the license was issued.
- (4) There have been repeated violations of this article; the liquor laws of the state and/or federal or state laws regarding firearms by agents or employees of the licensed dance hall.
- (5) Violations of section 5-51 or of section 5-76 of this Code or of both of those

sections have transpired on the licensed premises on three or more days in a consecutive period of 365 days.

(b) Prior to revocation, the police chief shall give written notice to the licensee setting forth:

- (1) The grounds upon which the city will seek revocation of the license.
- (2) The specific violations of this article and/or any federal or state law or laws upon which the city will rely in seeking revocation of the license or the specific convictions of the licensee or any person required to be listed on the application for the license.
- (3) That a hearing will be held before the tax assessor-collector or his designated agents.
- (4) The date, time and place of such hearing.
- (5) That the licensee shall appear in person and/or be represented by counsel, may present testimony, and may cross-examine all witnesses.

Such notice shall be served by personal delivery or by certified mail, return receipt requested.

(c) All hearings shall be held by the tax assessor-collector or his designated representative. Such official shall be referred to as the hearing officer. The tax assessor-collector shall not designate any person or persons to perform the duties of hearing officer under this section who has had prior knowledge of the allegations or circumstances upon which revocation is sought, except such person designated as hearing officer may, prior to the hearing, receive a copy of the notice given to the licensee.

A representative of the legal department shall be present at each such hearing to advise the hearing officer as to procedural matters; such attorney shall not partake in any determination of the facts.

All hearings shall be conducted under rules consistent with the nature of the proceedings; provided, however, the following rules shall apply to such hearings:

- (1) All parties shall have the right to representation by a licensed attorney though an attorney is not required.

- (2) Each party may present witnesses on his own behalf.
- (3) Each party has the right to cross-examine all witnesses.
- (4) Only evidence presented before the hearing officer at such hearing may be considered in rendering the order.

(d) If the licensee fails to appear at the hearing at the time, place and date specified, the city shall present sufficient evidence to establish a prima facie case showing grounds for revocation of the license.

(e) If the hearing officer finds that grounds do exist for revocation of the license, the hearing officer shall make written findings of fact and shall order the license revoked. A copy of the findings and order of the hearing officer shall be sent by certified mail, return receipt requested, to the licensee. The decision of the hearing officer shall be final.

(f) In the event a license is revoked, the city shall not be liable to the licensee for any refund of any part of the license fee.

(Code 1968, § 36-69; Ord. No. 78-509, § 2, 3-21-78; Ord. No. 79-1762, § 2, 10-16-79; Ord. No. 98-986, § 5, 11-4-98)

Secs. 5-86—5-100. Reserved.

ARTICLE IV. GOLF COURSES, DRIVING RANGES AND ARCHERY RANGES

Sec. 5-101. Hours of operation.

The operation of miniature golf courses, golf driving ranges, golf courses and outdoor archery ranges between the hours of 12:30 a.m. and daylight is hereby prohibited and declared to be unlawful.

(Code 1968, § 36-10; Ord. No. 81-1590, § 1, 8-18-81)

Sec. 5-102. Shading of lights.

Lights on miniature golf courses, golf driving ranges, golf courses and outdoor archery ranges shall be equipped with shades or hoods to prevent

the same from shining directly into any residence, apartment house, boarding house or rooming house. (Code 1968, § 36-11; Ord. No. 18-1590, § 1, 8-18-81)

Secs. 5-103—5-115. Reserved.

ARTICLE V. SKEET CLUBS AND SHOOTING GALLERIES

DIVISION 1. GENERALLY

Sec. 5-116. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building inspection division means that division within the public works and engineering department that is assigned the responsibility of enforcement of the Construction Code.

Shooting gallery means a room, place or enclosure wherein the firing of firearms is permitted to practice marksmanship.

Skeet club means an open premises where shotguns are used in target practice by shooting clay pigeons ejected by machines or thrown by hand to simulate flight. Trap shooting clubs are considered herein as "skeet clubs" and shall be subject to the same regulations. (Code 1968, § 36-80; Ord. No. 90-635, § 15, 5-23-90; Ord. No. 93-514, § 11, 5-5-93; Ord. No. 98-613, § 14, 8-5-98; Ord. No. 02-399, § 15, 5-15-02; Ord. No. 04-1015, § 7, 9-27-04)

Sec. 5-117. Exemption from article provisions.

The provisions of this article shall not apply to any firearms practice range or facility of any sort which:

- (1) Is owned and operated by the United States, the state of Texas or any department or political subdivision thereof; and

- (2) Is utilized exclusively for the purpose of training and qualifying peace officers and persons in training to become peace officers.

(Code 1968, § 36-80.1; Ord. No. 83-1406, § 3, 9-6-83)

Sec. 5-118. General regulations.

(a) No skeet or shooting gallery shall be constructed or operated within the city unless the plans for such are submitted to the building inspection division. The skeet club or shooting gallery shall comply with all provisions of the Construction Code. The approval of the chief of police shall be required as to the location of any skeet club or shooting gallery.

(b) The room, place or enclosure wherein the firing of firearms is to take place at a shooting gallery shall comply with all provisions of this section and shall not be used for any other purpose whatsoever during the progress of firing.

(c) The rear wall and side walls to a point on a line with the firing position shall be of bullet proof construction in accordance with the following specifications:

- (1) Not less than six-inch masonry or solid concrete.
- (2) Wood stud and plaster walls or equivalent construction, faced with one inch boards, backed with one-quarter-inch steel plate. Floors and ceilings of joist construction shall be considered bullet proof.

(d) All openings of any nature in the rear and side walls shall be protected with one inch board backed by a one-quarter inch steel plate.

(e) Open steel truss ceilings shall be protected by a one-quarter inch steel baffle plate inclined toward the firing position. The plate shall be as wide as the total width of the target and not less than five feet in depth, and shall be suspended from the bottom cord of the trusses to the intersection of two sight lines drawn from the elevation of the firearm at the prone firing position to the bottom of the furthest truss, and from the elevation of the firearm at the off-hand firing position to a point five feet above the floor at the

target. Baffle plates less than 15 feet from the firing position shall be protected with one inch boards.

(f) Exposed steel girders less than 15 feet (horizontal or vertical) from the firing position shall be protected with one inch boards.

(g) In addition to the above protection, there shall be provided a one-quarter inch steel stop plate, directly in the rear of targets, extending not less than eight inches beyond the outer ring of the bull's-eye, and inclined towards the firing position at an angle of 45 degrees. The stop plate shall be housed, on sides and top, with corrugated sheet metal extending not less than one foot beyond the top edge of the plate. At the base of the inclined stop plate there shall be provided a sand box with not less than six inches of sand and of sufficient width so as to absorb all of the bullets ricocheted by the stop plate as fired from the firing position.

(h) Vertical stop plates existing on October 23, 1957, will be accepted with the same regulations as is provided for inclined stop plates, except that the thickness of the stop plate shall be not less than five-sixteenths of an inch and that the corrugated sheet metal housing shall extend not less than three feet beyond the face of the stop plate.

(i) Entrance to that part of the licensed area situated between the firing position and targets shall be protected with 36-inch guard rails or equivalent protection. No person except the person in charge shall be permitted within the above described area during the progress of firing.

(Code 1968, § 36-81; Ord. No. 72-2007, § 1, 11-1-72; Ord. No. 02-399, § 16, 5-15-02)

Sec. 5-119. Stationary bull's-eye targets.

Targets used at shooting galleries shall be of the stationary bull's-eye type. All moving targets are prohibited.

(Code 1968, § 36-82)

Sec. 5-120. Certain weapons and ammunition prohibited at shooting galleries.

(a) It shall be unlawful for any person to possess or discharge within or upon any shooting gallery permitted under this article, any rifle

which is of other than 22 calibre or which is chambered to accept a cartridge larger than 22 calibre rim fire long rifle.

(b) It shall be unlawful for any person to possess or discharge within or upon any shooting gallery permitted under this article any pistol:

- (1) Which is of other than 22 calibre or which is chambered to accept a cartridge larger than 22 calibre long rifle, if the shooting gallery does not have a special permit issued under the provisions of section 5-121 of this Code; or
- (2) Which is of a calibre larger or is chambered to accept a cartridge more powerful than is authorized to be discharged by authority of the special permit, if the shooting gallery has a special permit issued under the provisions of section 5-121.

(c) It shall be unlawful for any person to possess or cause to be discharged within or upon any shooting gallery permitted under this article any rifle or pistol ammunition which is not authorized to be discharged at such shooting gallery by authority of this article and the permit issued to such shooting gallery.

(Code 1968, § 36-83; Ord. No. 83-1406, § 1, 9-6-83)

Sec. 5-121. Special shooting gallery permit.

(a) A pistol of a calibre and chamber larger than 22 calibre rim fire long rifle, whether rim fire or center fire, may be discharged upon a shooting gallery permitted under this article, provided that the shooting gallery holds a valid special permit issued under this section which authorizes the discharge thereof.

The special permit shall be issued in the same manner in all respects as a regular shooting gallery permit under this article, except as provided in this section.

(b) The applicant shall advise the building inspection division and the chief of police that he desires a special permit and shall designate the maximum caliber and the most powerful standard pistol cartridge proposed to be fired at the shooting gallery.

(c) The construction standards specified in section 5-118 of this Code shall not apply except as minimum design criteria where reinforcement thereof is not necessary for the safe firing of the maximum calibre and cartridge proposed. The applicant shall cause the facility to be designed for the safe firing of the maximum calibre and cartridge proposed, and shall submit a certificate of a full-time practicing professional engineer registered by the state that the facility will, if constructed in accordance with the applicant's plans and specifications, permit the safe firing thereof.

(d) The applicant shall cause the facility to be designed so that with all firing positions in use for the rapid fire discharge of the maximum proposed calibre and cartridge specified, the facility will not cause a noise disturbance across any real property boundary of the proposed site or within any public space or right-of-way. The applicant shall submit a certificate by a full-time practicing professional engineer registered by the State of Texas who devotes at least 50 percent of his practice time to acoustical design certifying that the facility will, if constructed in accordance with the applicant's plans and specifications, meet the noise standard specified in this subsection.

(e) Prior to the issuance of a special permit, the shooting gallery shall be inspected in test operation by an engineer designated by the director of public works and engineering to determine that the facility has been constructed in accordance with the plans and specifications proposed, and that safety and noise standards specified in subsections (c) and (d) of this section have in fact been met in the actual operation of the facility.

(f) Upon such determination and compliance with all other provisions of this article, the chief of police shall issue a special permit designating the maximum calibre and cartridge authorized to be fired upon the shooting gallery.

(g) All design criteria, certificates and tests under this section shall be based upon the most powerful commercially manufactured cartridge loads for the pistol calibre and cartridge specified as produced by any manufacturer of handgun ammunition whose products are regularly sold in the city. Remanufactured or handloaded ammu-

munition shall be permitted to be fired, provided that it is not loaded in such a manner as to be more powerful than the maximum load allowed by the permit.

(Code 1968, § 36-83.1; Ord. No. 83-1406, § 2, 9-6-83; Ord. No. 90-635, §§ 16, 17, 5-23-90; Ord. No. 93-514, § 12, 5-5-93; Ord. No. 98-613, § 15, 8-5-98; Ord. No. 04-1015, § 8, 9-27-04)

Sec. 5-122. Indoor trap ranges excepted from sections 5-118, 5-119 and 5-120.

The provisions of sections 5-118, 5-119 and 5-120 shall not be applicable to mechanically operated or coin-operated indoor trap ranges as provided in section 5-141.

(Code 1968, § 36-84)

Sec. 5-123. Hours of operation for shooting galleries.

The operation of any shooting gallery between the hours of 12:30 a.m. and daylight is hereby prohibited and declared unlawful.

(Code 1968, § 36-85)

Sec. 5-124. Permitted firearms and ammunition at skeet clubs; firing near streets, houses, etc., prohibited.

No firearm other than shotguns shall be discharged at a skeet club and no shot larger than No. 7½ shall be used. No gun shall be fired within 300 yards of any street, alley,

public grounds, business district or house, provided, however, skeet clubs in operation prior to annexation into the city and which comply with the other provisions hereof and which have a distance of not less than one hundred fifty (150) feet back of any gun position measured to the nearest street, alley, public grounds, business district or house, shall satisfy the distance provision, if, after inspection, it is determined that adequate safety is assured, and provided, further, any skeet club using only shotguns of .310 caliber or smaller which utilize No. 11 shot or smaller and the barrel of which is tethered so as to restrict the muzzle to a down-range position shall require a minimum of one hundred twenty-five (125) yards down-range and there shall be no additional distance requirements with reference to streets, alleys, public grounds or business district.
(Code 1968, § 36-87; Ord. No. 70-829, § 1, 5-26-70)

Sec. 5-125. Periodic inspections.

(a) Every skeet club or shooting gallery for which a license has been issued under this article shall be periodically inspected by the chief of police or his duly appointed representative, and such inspections shall be made and conducted at any time the same shall be deemed advisable in the opinion of the chief of police and every skeet club and shooting gallery shall be at all times open for inspection.

(b) All such inspections shall be subject to applicable constitutional limitations.
(Code 1968, § 36-88)

Secs. 5-126—5-135. Reserved.

DIVISION 2. LICENSE

Sec. 5-136. Required.

It shall be unlawful for a person to establish, maintain or operate, within the corporate limits of the city, a skeet club or shooting gallery without having first secured a license to do so from the chief of police. Such license shall not be issued by the chief of police unless the person applying therefor has secured a certificate of occupancy from the building inspection division authorizing the

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occupancy of the premises for purposes of operating a skeet club or shooting gallery. Provided, however, this article governing the construction, licensing, use and occupancy of skeet clubs and shooting galleries shall not be applicable to any such installations which are constructed, operated and supervised in accordance with U. S. Army or Reserve Officers Training Corps regulations by school districts, colleges or universities.
(Code 1968, § 36-94; Ord. No. 72-2007, § 2, 11-1-72; Ord. No. 90-635, § 18, 5-23-90)

Sec. 5-137. Application.

Any person desiring a license required by this division shall make written application therefor to the chief of police on forms to be provided by the chief of police.
(Code 1968, § 36-95)

Sec. 5-138. Inspection of applicant's premises.

The chief of police shall cause an investigation and inspection to be made of any skeet club or shooting gallery for which a license is desired, to determine if it is in compliance with the terms of this article.
(Code 1968, § 36-96)

Sec. 5-139. Fee.

The fee for a license under this division shall be twenty-five dollars (\$25.00) per annum. Such fee shall be collected by the chief of police before the issuance of such license or a renewal thereof. When the license is issued during any current calendar year, the fee therefor shall be prorated and, for the purpose of determining the amount due, the month during which the license is issued shall be counted as one full month. No refund of any license fee paid hereunder shall be made by the city for any cause whatsoever.
(Code 1968, § 36-97)

Sec. 5-140. Issuance.

If the chief of police determines that a skeet club or shooting gallery for which a license is applied for is in compliance with this article, he shall issue the license, upon payment of the required fee.
(Code 1968, § 36-98)

Sec. 5-141. Special provisions for indoor trap ranges.

(a) An applicant for a license to operate an indoor trap range shall submit, together with his application therefor, a copy of the proposed plans and specifications of such range and a description of the premises on which such range shall be operated. Such application shall also describe the nature, size and muzzle velocity of the firearms to be used in such indoor trap range, and the license, if issued, shall limit and restrict the operation of such range to the described firearms, and no other. Such application, or the plans and specifications submitted therewith, shall affirmatively disclose that the walls, floor and ceiling of the proposed range shall be of sufficient thickness to prevent penetration by the pellets, shot or ammunition fired from the described firearms.

(b) Upon compliance with the foregoing provisions, an applicant may be issued a license by the chief of police under the terms and provisions of this division.

(Code 1968, § 36-99)

Sec. 5-142. Contents.

A license issued under this division shall set forth the name and location of the skeet club or shooting gallery covered by such license, the name or names of those persons to whom such license is issued and any other information that the chief of police may deem necessary.

(Code 1968, § 36-100)

Sec. 5-143. Display.

A license issued under this division shall be placed and kept at all times in some open and prominent place within the skeet club or shooting gallery.

(Code 1968, § 36-101)

Sec. 5-144. Expiration.

All licenses issued under this division shall expire on the thirty-first day of December of the year for which issued.

(Code 1968, § 36-102)

Sec. 5-145. Not transferable.

Licenses issued under this division shall be deemed personal to the licensee and shall not be assigned or transferred to any other person.

(Code 1968, § 36-103)

Sec. 5-146. Does not bar prosecutions under or enforcement of other ordinances.

No license granted under this division shall ever be held to bar a prosecution for violation of any other ordinance of this city, or to prevent the enforcement of any ordinance, or inhibit the exercise of powers and duties of any officer under the terms of any such ordinance.

(Code 1968, § 36-104)

Sec. 5-147. Appeal from grant or refusal; notice of refusal.

Any person dissatisfied with the decision of the chief of police in either granting or refusing a license to operate a skeet club or shooting gallery shall have the right of an appeal to the city council by notifying the city council in writing within ten (10) days after the decision of the chief of police of his appeal therefrom. Every person who is refused a license to operate a skeet club or shooting gallery by the chief of police shall be notified in writing of the reasons for such refusal.

(Code 1968, § 36-105)

Sec. 5-148. Suspension or revocation.

(a) Any license issued under this division may be revoked on any of the following grounds:

- (1) Violation of any of the provisions of this article or any rules and regulations either now or hereafter adopted pursuant hereto, or of any laws of the state.
- (2) Permitting, aiding or abetting the commission of any illegal act in or on the licensed premises.
- (3) Selling or permitting the consumption of alcoholic beverages on the licensed premises.
- (4) Permitting any person under the influence of alcoholic beverages to use the facilities of the club or gallery.

- (5) Acts, conduct or practices detrimental to the health, safety or welfare of any person in the city.

(b) Such revocation shall be subject to the same procedures specified in subsections (b) through (h) of section 5-85, as applicable to revocation of dance hall permits.

(Code 1968, § 36-106)

Secs. 5-149–5-160. Reserved.

ARTICLE VI. GAME ROOMS

DIVISION 1. GENERALLY

Secs. 5-161–5-170. Reserved.

DIVISION 2. LICENSE

Sec. 5-171. Required.

It shall be unlawful to operate, use or maintain any room or place in the city where persons are permitted to play at any game of dominoes, cards or other games, and for the use of which, or privilege of playing therein or thereat, any money or its equivalent, or any check or counter in lieu of money shall be paid or received, or where memberships are sold for anything of value for the privilege of playing therein or thereat, without first securing a license therefor.

(Code 1968, § 36-127)

Sec. 5-172. License fee—Levied; amount.

There shall be levied and collected from every person operating, maintaining or managing, or causing to be operated, maintained or managed, any room or place in the city for the purpose set out in section 5-171 of this Code an annual license fee of six dollars (\$6.00) per annum for each separate establishment used or maintained; provided, licenses may be taken out after January of any year and shall be paid for on the basis of fifty cents (\$0.50) per month for the remaining months of the year, including the month of issuance. All moneys received hereunder shall be the property of the city.

(Code 1968, § 36-128)

Sec. 5-173. Grounds for denial, revocation or suspension.

(a) The tax assessor-collector shall forward each application received under this division to the chief of police for an investigation as to whether the applicant has been convicted of an applicable offense as specified in section 1-10 of this Code. If it appears that the applicant has been convicted of such an offense, the tax assessor-collector shall follow the procedures set forth in section 1-9 of this Code.

(b) A license issued under this division shall be subject to revocation by the tax assessor-collector pursuant to the applicable provisions of sections 1-9 and 1-10 of this Code.

Sec. 5-174. Same—Payment; receipt constitutes license; approval of chief of police prior to issuance of receipt.

The license fee provided for in section 5-172 shall be paid to the tax assessor-collector, who, upon receipt of such fee and subject to the following terms hereof, shall give a receipt therefor to the taxpayer in the name of the city, signed by the collector, which receipt shall be a license for the operation of the game rooms set out in this division until the thirty-first day of December of the year in which the license was issued.

(Code 1968, § 36-129)

Sec. 5-175. Violations.

Any person operating, using or maintaining any room or place for which a license is required by this division without first paying the fee and securing a license therefor, or who operates, uses or maintains such place after the license therefor has been revoked, shall, upon conviction, be fined as provided in section 1-6 of this Code for each day that such room or place is so operated.

(Code 1968, § 36-132)

Sec. 5-176. Exemptions.

This division shall not be construed to embrace bona fide fraternal organizations and lodges, social clubs or social gatherings in private resi-

dences for the sole purpose of sociability and amusement.

(Code 1968, § 36-133)

Sec. 5-177. Effect.

Each licensee under this article must meet and comply with all requirements of law applicable to the premises or any activity conducted thereon and the issuance of a license under this article shall not excuse the licensee, his agents or employees or any patrons of such premises therefrom.